IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.73 OF 1996

The Commissioner of Income Tax
Nashik .. Applicant.

V/s.

Madhukar SSK Ltd., Yawal .. Respondent.

Mr.A.S. Rao with Mr.Pankaj Kapoor for the applicant.

Mr.S.N. Inamdar with Mr.P. Vaidya for the respondent.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 26TH APRIL, 2005.

P.C. :

1. Heard the learned counsel for the parties. The Tribunal has referred following questions for the opinion of this Court, reading as under :

> Whether on the facts and in the circumstances of the case the ITAT relying on the decision of its Special Bench of the Tribunal Pune Bench, in the case of Shri Chhatrapati SSK Ltd. (198 ITR 78 - AT) while deleting the following additions ?
>
> | | |
> |---|---|
> | 1. Non-refundable deposits | Rs.1686870 |
> | 2. C.M. Relief Fund | Rs. 116580 |
> | 3. Area development fund | Rs. 116580 |
> | 4. Sugar cane development fund | Rs. 932770 |
> | 5. Drought Relief fund | Rs. 466286 |

2. In so far as all other items for both the except area development fund and cane development

fund are concerned, the issue is covered by the decision of the Apex Court in the case of **Siddheshwar S.S.K. Ltd. V/s. CIT [(2004) 270 ITR 1 (SC)]** in favour of the assessee and against the revenue. So far as Area Development Fund and Cane Development Fund are concerned, the issues will have to be referred back to the Tribunal for consideration afresh as per the judgment of the Apex Court in the case of Siddheshwar S.S.K. Ltd. (supra) as such the said issues stand remitted back to the Tribunal for consideration afresh.

3. The reference is disposed of in the above terms with no order as to costs.

(V.C. DAGA, J.)

(J.P. DEVADHAR, J.)